

Discipline in Montgomery County Departments

May 16, 2008

CountyStat Principles

- **Require Data Driven Performance**
- **Promote Strategic Governance**
- **Increase Government Transparency**
- **Foster a Culture of Accountability**



Agenda

- **Introductions**
- **Follow-up items from 3/14/2008 meeting**
- **Improvement of formal disciplinary process**
- **Current disciplinary practices across departments**
 - What should managers have already done before formal discipline?
 - When does something rise to the level of formal discipline?
- **Wrap-up**



Follow-Up From March 24th Meeting

- **Implement proposed disciplinary process changes at DOCR**
 - Status: Completed
 - Two cases involving criminal investigations have limited DOCR's ability to implement these changes in all cases.
- **Implement proposed disciplinary process changes at OHR**
 - Status: Completed
- **Determine the reasons for when people are placed on AML**
 - Status: Completed
- **Today's Topics**
 - Determine the relevance of the proposed disciplinary and ADR process changes to other departments.
 - Investigate discrepancies in departments' use of disciplinary actions.



Improvement of Formal Disciplinary Process

- OHR is developing a comprehensive database tracking system allowing multiple users in departments and OHR to upload and revise documents related to disciplinary procedures and the grievance process in a workflow format.
- The tracking system will be managed and administered by OHR with the goals of centralizing documents, managing the use of administrative leave, and establishing timelines with prompts that keep managers aware of case status.
- All steps in the pre-discipline and discipline process, the ADR procedures, and the grievance process for each bargaining unit and non-represented employees will be tracked and measured.
- Templates and model charging documents will be kept in a resource library for Department users to access and use as a guide for their correspondence.
- Status: 6-month Pilot Program with the Department of Correction and Rehabilitation to begin June 3, 2008.
- Implement in all other departments.



Improved Formal Discipline Process: Example

ADR Tracking System - Windows Internet Explorer

https://int01.mcgov.org/ent/s1/ohr/adr/SocDraft.cfm?d=2&t=Draft%20SOC

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ADR Tracking System

Labor/Employee Relations Process and Information Tracking System
OHR, Montgomery County Government, Maryland

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Draft SOC

Enter employee's ID, select one or more charges, and click on the Proceed button to continue. For multiple charge selection, please hold the Ctrl key when clicking on the next charge item.

Employee ID :

Charge(s) :

- Accepts, offers, gives, or promises money or valuables to gain influence
- AWOL or tardiness
- Damages or destroys County property or private property of another
- Directs an employee to perform work outside of employee's official duties
- Engages in a physical altercation
- Engages in discriminatory, retaliatory or harassing behavior
- Engages in private business, trade, or occupation during official working hours
- Fails to cooperate or provide information during investigation
- Fails to observe safety practice
- Falsification of Employment Documents
- Impaired/substance abuse on the job
- Insubordination

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https://int01.mcgov.org/ent/s1/ohr/adr/NodaCao.cfm?d=8&t=Attorney NODA

Local intranet 100%



Examining Discipline Across Departments

- **Data collected during examination of the ADR process suggested a lack of uniformity in how departments discipline employees**
- **A lack of uniformity can lead to problems such as**
 - Morale problems
 - Hostile work environment
 - Poor performance
 - Decreased customer service
 - Poor perceptions of County services among residents

A well-defined process protects both employees and managers.



Number of ADR Cases by Department

	2004	2005	2006	2007	Total ADR Cases	Total Eligible Employees	Cases Per Eligible Employee
DPWT	24	43	33	43	143	1,219	0.12
DOCR	46	32	24	18	120	424	0.28
Liquor Control	5	5	6	6	22	198	0.11
Police	2	10	4	5	21	452	0.05
HHS	3	3	3	9	18	1,265	0.01
Libraries	3	0	1	2	6	358	0.02
DHS	0	1	2	1	4	48	0.08
Recreation	0	1	0	3	4	112	0.04
DPS	1	1	0	1	3	165	0.02
MCFRS	0	1	0	1	2	38	0.05
RSC	2	0	0	0	2	30	0.07
DHCA	0	1	0	0	1	59	0.02
Sheriff	0	1	0	0	1	131	0.01
Finance	0	0	0	0	0	56	0.00
DTS	0	0	0	0	0	52	0.00
DEP	0	0	0	0	0	37	0.00
DED	0	0	0	0	0	23	0.00
Total by Year	86	99	73	89	348	4,764	0.07

Data Source: OHR spreadsheet of ADR cases



Examining Current Disciplinary Practices

■ Methodology

- Interviews with managers and HR liaisons in various departments
 - 14 people participated in formal interviews
 - 8 people participated in informal interviews
 - 9 departments were interviewed
- Information was gathered about
 - Disciplinary procedures, both formal discipline and leading up to formal discipline
 - The role of various players, including the department, OHR, and unions
 - Data-gathering procedures

Seems to be general consensus that formal discipline process is reasonably well defined, but the process before formal discipline is not well defined.



Examining Current Disciplinary Practices

Two major questions arose from interviews

- **What should managers have already done before formal discipline is pursued?**
 - What are the minimum steps that managers should have taken?
 - What are the expectations about how something is documented?

- **When does something rise to the level of formal discipline?**
 - When is something “bad enough” that formal discipline can be pursued?
 - What are the maximum steps that managers should take before pursuing formal progressive discipline?
 - What actions should always receive formal discipline and at what level?



Examining Current Disciplinary Practices

- **Current Departmental Practices**
 - Range of current practices and how they differ across departments
- **OHR's Expectations**
 - OHR's expectations about how this process or issue should function in departments
- **Closing the Gap Between Practice and Expectation**
 - Recommendations for closing the gap between departments' current practices and OHR's current expectations

The discussion of each major question will be divided into three parts.



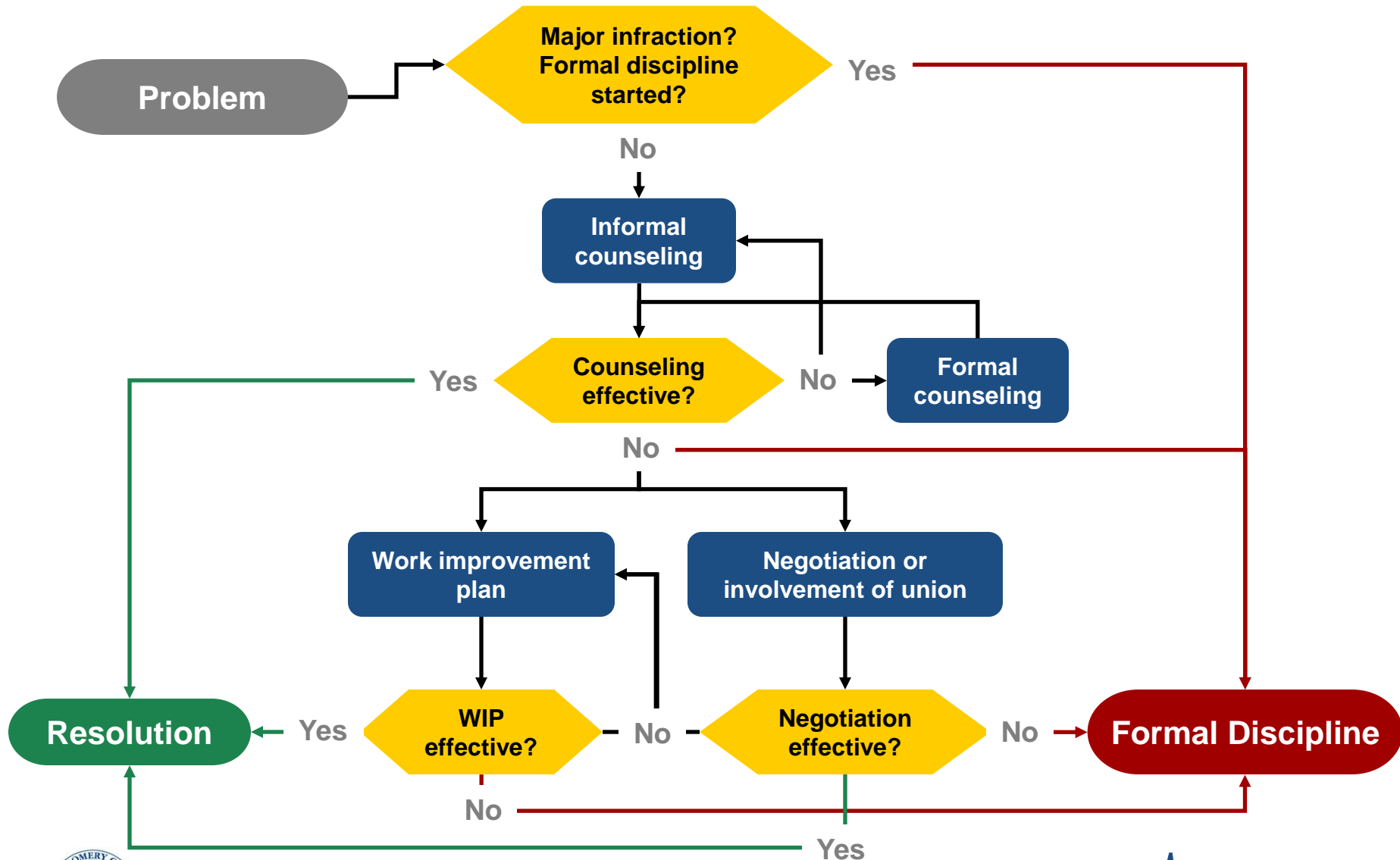
Before Formal Discipline: Current Practices

- **Everyone starts with counseling, usually informal counseling**
 - Number of sessions differ
 - Documentation practices differ
- **Typically, though not always, then move to formal counseling**
 - Number of sessions differ
 - Documentation practices differ
- **If counseling does not bring resolution, wide variety of steps**
 - Work improvement plan (sometimes more than one)
 - Seek help from union stewards or union representatives
 - Formal discipline

Through this process, other interventions could be taking place as well, such as training, flexible scheduling, or adjustments to work loads.



Before Formal Discipline: Current Practices



Before Formal Discipline: Current Practices

- **Documenting behaviors or incidents**
 - None
 - Notes in Outlook calendar
 - Electronic supervisory files
 - Short written supervisory files
 - Detailed supervisory files, including copies of letters, phone conversations, or documentation from other employees
 - Any of these could be compiled on a daily basis or on a more occasional basis
- **Documenting counseling**
 - None
 - Outlook calendar appointments
 - Electronic supervisory files
 - Written supervisory files
 - Formal counseling forms or memos
 - Formal counseling forms signed by the supervisor and employee

Higher documentation requirements increase burden on managers



Before Formal Discipline: OHR Expectations

- **Employee is fully informed and has received:**
 - Clearly articulated expectations of workplace behavior with the understanding that there will be consequences for non-compliance
 - Performance Plan
 - For new employees, one on one communication with supervisor, including explanations of departmental policies and procedures
- **Manager/supervisor has:**
 - Established an effective working relationship with employee with ongoing communication
 - Provided coaching and feedback to correct behavior
 - Engaged in timely discussion of the incidents/issues
 - Recorded and documented the incidents/issues in supervisory file



Before Formal Discipline: Closing the Gap

- Clarify and communicate role of manager/supervisor
- Training for supervisors
- Effective use of probationary period
- OHR site visits on a quarterly basis (discussion/training)
- Matrix



Getting to Formal Discipline: Current Practices

- **There is a common definition of formal discipline: specific discipline outlined in the personnel regulations and negotiated agreements**
- **The decision to pursue formal discipline is usually guided by:**
 - The tolerance of the manager
 - The manager's or the department's ideas about what has to be done before it is possible to ask for formal discipline
 - The manager's or the department's expectations about what the result of formal discipline will be
- **A few departments have policies and procedures for guidance**
 - Most departments consult with OHR on the appropriate level of discipline for a given infraction
- **Seems to be general consensus on what kinds of actions should always receive formal discipline**
 - However, there are different ideas about what level of discipline is appropriate or possible



Results of ADR Process

Number of cases where, relative to proposed discipline, outcome was...	Proposed Level of Discipline						Grand Total
	Forfeiture of Leave	Within-grade reduction	Suspension	Suspension pending investigation	Demotion	Dismissal	
Decreased	5	3	197	2	2	52	261
Increased	2		2	1			5
Same	1		26	7		57*	91
Undecided			2			3	5
Grand Total	8	3	227	10	2	112	362

* In most of these cases, the employee resigned rather than being dismissed.



ADR Outcome by Type of Charge

Category of charges	Outcome discipline relative to proposed discipline			Number of cases
	Decreased	Increased	Same	
Performance	92 (76%)	3 (2%)	25 (21%)	121
Leave/attendance	53 (65%)	1 (1%)	27 (33%)*	81
Behavior	45 (75%)	0 (0%)	11 (18%)	60
Insubordination	36 (86%)*	0 (0%)	6 (14%)*	42
Violence	17 (71%)	0 (0%)	7 (29%)	24
Substance abuse	11 (61%)	0 (0%)	7 (39%)	18
Theft	2 (20%)*	1 (10%)	7 (70%)*	10
Pornography	3 (100%)	0 (0%)	0 (0%)	3
Unknown	1 (50%)	0 (0%)	1 (50%)	2
Substance abuse and theft	1 (100%)	0 (0%)	0 (0%)	1
Grand Total	261 (72.1%)	5 (1.4%)	91 (25.1%)	362

* Difference from average is statistically significant



Other Considerations

- **Employee performance plans need to be current, and performance evaluations need to be honest**
 - Some managers feel constricted in how honest they can be in performance evaluations
- **Discipline can only be based upon incidents occurring within the past year**
- **There is confusion about discipline of temporary employees**
- **There is some confusion about the ADR process**
 - Some don't know departments can reject ADR recommendation
 - Some don't know that if an employee is disciplined as per a last chance agreement, that discipline can go to ADR.



Getting to Formal Discipline: OHR Expectations

- **Timely and thorough investigation of incident/issues**
- **Documentation**
- **Consult with HR Specialist regarding level of discipline**
- **Issue statement of charges (SOC)**
- **ADR**
- **Issue notice of disciplinary action (NODA)**



Getting to Formal Discipline: Closing the Gap

- OHR to review all statements of charges prior to issuance – target date - January 2009
- OHR to identify issues and suggest to departments appropriate level of discipline considering the nature and gravity of the offense, its relationship to the employee's assigned duties and responsibilities, the employee's work record, and other relevant factors (including a review to identify disparate treatment)
- OHR to continue to offer training related to the formal disciplinary process
- Collect further data - OHR to conduct focus groups with managers/supervisors to identify issues in current process and focus resources accordingly
- Parallel Track: performance management – develop additional training opportunities



Wrap-Up

- **Confirmation of follow-up items**
- **Time frame for next meeting**

